NEW LEGISLATION

DOMINICAN REPUBLIC: NEW CONSTITUTION—A new Constitution was promulgated on December 1, 1955, the twenty-sixth in the course of 111 years of Independence and the fourth under the Trujillo era. The labor of the Constituent Assembly was as rapid as it had been in 1934, 1942, and 1947 and without discussion; however, the technical draftsmanship was superior and carefully prepared, and the principal amendment was preceded by a campaign of propaganda to create a favorable atmosphere.

This amendment is the revival of the office of Vice-President, which had been eliminated in the 1942 Constitution. The age limit for office, including the Presidency, is reduced to 25 years. These two amendments, coupled with the previous press campaign, seem to indicate that the principal aim is to open a constitutional door to the election of Trujillo's eldest son as Vice-President in 1957 (he will then be 27).

The other amendments are of minor importance. Some merit brief mention.

A substantial change in the relations between Church and State stands out prominently. The former article 93 ("The relations of the Church and State will continue as they are at present, inasmuch as the Apostolic Roman Catholic Religion is the one that the majority of Dominicans profess"), similar to that in many Latin-American constitutions, has been replaced by a Title III on "Regime of the Concordat," which reads: "The relations between the Church and the State are governed by the Concordat between the Holy See and the Dominican Republic, in conformity with the Law of God and the Catholic tradition of the Dominican Republic." This new title is the result of the Concordat signed and ratified in the summer of 1954.

Once again in this Trujillo era, the attributes of the Executive Power are enlarged. The most important change is in connection with the Municipal Councils. The prior constitutions provided that the mayors (*síndicos*) and aldermen (*regidores*) and their alternates were elected by popular vote; under the new constitution, they are appointed, and removable, by the Executive Power. The regime of the ministries is slightly altered; previously, it was the function of Congress by statute to establish the departments and prescribe their functions. This power is now vested in the Executive, the President of course continuing to appoint the ministers. The prior authorization of the Congress to the Executive to declare war and make peace is eliminated, the new text is somewhat confused, however, as it refers only to the power of the President to meet an armed or imminent attack. Other attributes of Congress are slightly diminished; the last part of paragraph 8 of article 33, which provided for automatic cessation of a state of national emergency declared provisionally by the President, unless ratified by Congress within 10 days, is eliminated. The right of interpellation of cabinet officers in Congress is continued, but it now requires "prior authorization of the Executive Power."

Article 8 (former art. 6) on Human Rights is amplified, with some minor modifications. The amplifications cover a whole series of goals for the benefit of the family, mothers, children, old people, health, etc., and the poor, similar to those which have been included in recent years in many European and Latin-American constitutions. Two precepts which do not properly lie within the scope of a constitution stand out: No. 19 refers to the matrimonial property regime, based on free antenuptial agreements and the legal regime of separate property; No. 20 provides for the right to exclude from inheritance a descendant for unworthy acts "which tend to cast ill-repute on the good name of the family." The new initial phraseology of this article is worth noting. The former constitutions read: "The following are consecrated as inherent to the human personality." The new Constitution reads: "It is recognized that the principal purpose of the State is the effective protection of the rights of human personality."

This tendency to lay down programs by including general principles is to be noted in other new articles in the Constitution. For instance, article 3 incorporates the principle of nonintervention; article 7 declares the economic and social development of the territory of the Republic to be of supreme and permanent national interest. Two other general principles may prove of immediate practical importance; the new article 4 declares Communism to be incompatible with constitutional principles and orders sanctions against its adherents; and article 5 provides that the law shall determine the extent of the territorial seas and continental shelf belonging to the Nation.

An important addition is made to article 99 (former article 96); the provision is repeated that mineral deposits belong to the State, which may grant the right to work them by concessions to private individuals, but it is now added: "The State may transfer or assign the property of certain deposits." The new paragraph IV added to article 108 is of importance; the State unlimitedly guarantees financial obligations incurred not only by the Administration but also by autonomous organs; the shares, bonds, and other obligations of the state banks are specifically mentioned.

Apart from some changes of phraseology, of no great importance, the remaining new precepts are the fruit of the peculiar politico-personal regime of the Dominican Republic in the Trujillo era. Eulogies to Trujillo as the father of his country; statues and monuments in his honor; the sanctity of the property of those who have been Presidents or Vice-Presidents and of the property of their widows and children "which may not be attached nor expropriated" (arts. 112, 113, 107). The classical right to organize political parties is repeated (art. 106), but adds a curious tribute to the Dominican Party (Trujillo's) as the agent of civilization.

In short, this 1955 Constitution is not a new constitution, but a partial amendment of the former one. The principal amendment is the restoration of the office of Vice-President and lowering of the age qualification. A series of programs is added. The authority of the Executive is enlarged in a few particulars, especially to the detriment of municipal authorities. And it glorifies the man who has dominated the republic for a quarter of a century. Like its pred-

ecessors of the 1934, 1942, and 1947 amendments, it is only one more cloak to suit the different circumstantial conveniences of one of the most rigid dictatorships that Latin America has ever known in the course of its history.

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JAPAN: AUTOMOBILE SECURITY ACT OF 1956—On July 29, 1955, the Japanese legislature enacted a law which, according to its first article, is designed "to secure the financial liability for death or bodily injury arising from the operation of automobiles and thus to protect the victim and to promote the sound development of motorized traffic." This Automobile Liability Security Law was put into effect as of February 1, 1956, by Cabinet Order of October 18, 1955. In view of current endeavors in the United States and elsewhere to improve what is generally recognized as an intolerable situation fraught with great social, economic, and political danger,[1] the Japanese experiment may be of interest.

The new compulsory liability insurance in amounts fixed by law (Cabinet Order, Art. 2 prescribing amounts from about $100 to $1,000 for injury and death) is of course not peculiar to this experiment, being a feature of the laws of many, if not most, countries. Nor does coverage available in cases of uninsured or unknown operators (Arts. 71 *et seq.* of the Law) reach beyond existing devices such as the Unsatisfied Judgment Fund laws of the Canadian Provinces, of France, or the state of New Jersey. Open substitution for what in the United States has become a liability for "negligence without fault,"[2] of a quasi-strict liability (Art. 3) is well-known from European models and the proposals of the Institute for the Unification of Private Law in Rome. And finally even the great share of the government in the new plan, including a statutory reinsurance (Art. 40) at 60 percent, has been foreshadowed in the administrative compensation scheme of the Columbia Plan, in part enacted in 1947 in the Canadian province of Saskatchewan.

What is entirely new, however, is an elaborate mechanism of so-called "provisional payments" according to Article 17 of the Law and Article 5 of the Cabinet Order. The mere fact of having caused death or injury by the operation of an automobile entitles the victim to demand payment from the insurer in an amount of about one third of the compulsory policy limits. Reimbursement of amounts thus "provisionally" paid in the absence of liability, is limited to a claim by the insurer against the government which in turn may, but hardly ever will, recoup itself from the victim. This last provision, within its narrow confines, closely approaches what has been advocated as a substitution of loss for liability insurance.[3]

[1] See in general my "Full Aid" Insurance for the Traffic Victim—A Voluntary Compensation Plan (1955).

[2] See my "Negligence without Fault" (1950).

[3] See op. cit. *supra* note 1.